

CLEAN WATER COUNCIL
Meeting Highlights
December 17, 2002

Location

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike, Lawrenceville, NJ.

Attendees: Pat Matarazzo, Pamela Goodwin, Kerry Kirk Pflugh, James Cosgrove, Helen Heinrich, Russell Furnari, Mary Beth Koza, Barry Sullivan, Todd Kratzer, Amy Goldsmith, and Peter Evans (a resident of Port Washington, NY) and Ursula Montis, Secretary.

Phosphorus Technical Manual Update:

Pat Matarazzo- One of the things that came out of the meeting with the Commissioner, was the opportunity to get the Phosphorus Technical Manual for deciding where phosphorus can be determined as a limiting factor. Jim Cosgrove, myself, Diane Alexander and a few other engineers from around the state, got together at Hatch Mott MacDonald's office and came up with recommendations. A week later we met with the authoring staff at DEP who put the protocol together. I apologize to Kerry for not telling her about the meeting, but she found out about it and was there.

Mary Beth Koza – She questioned the process and why not all CWC members were aware of the subcommittee and DEP meetings. We were supposed to view this as a Council.

Pat Matarazzo – there is a technical subcommittee we use. The Commissioner made it very clear that there was a quick turn around time on this issue. He wanted it within 1 – 2 weeks, so I immediately assigned this task to the technical subcommittee to do a quick review and make recommendations. The subcommittee consisted of Jim Cosgrove, Diane Alexander, Jim Smullins, Dave Baker, Ray Zabihach, Fletcher Platt, and Dan VanAbs.

Mary Beth Koza – I have to report to NJ Industry and I was not aware of these meetings or their outcome. I should be able to let them know what is going on.

Pat Matarazzo – Commissioner made it clear to us that if we did not get comments to him quickly, they would just go ahead with what they had. It took us a week to put it together.

Mary Beth – I'm sure you did a good job, but the results go back to the Commissioner as representing CWC and that is not true if the rest of us have not seen it.

Pat Matarazzo – At the meeting with the DEP people, we made some recommendations to them and now that document is being redrafted and it will be coming back out, so we

will have another opportunity to look at it. The DEP people were pleased with our comments.

Mary Beth – I want to make sure if we represent CWC, that we should know what is going on and should have the opportunity to review the draft that comes back and be a part of the process. It could be done by e-mail.

Kerry Kirk Pflugh – Suggested that in the future, if there is a subcommittee reviewing anything, that before the feedback goes back to the Department, it will go to all the members to review and respond. Also, CWC members should be notified of any meetings concerning CWC.

Pam Goodwin – It could have gone out as a subcommittee recommendation and not a technical misrepresentation of a response by CWC.

Helen Heinrich – Asked for a copy of the subcommittee report.

Jim Cosgrove – There is no report. I can prepare something from my notes. I can summarize the key issues of our recommendations. That would not be a problem. The meeting was on the protocol that they established for completing the study to evaluate whether phosphorus is limiting nutrients and whether it is otherwise affecting the designated uses.

Amy Goldsmith – Felt very strongly that it was inappropriate to go to that meeting without discussion or consensus of the position of the CWC. We should also have known about the meeting.

Kerry Pflugh – The Commissioner said he would share the technical document for our review and input and that he needed a quick turn around and that he couldn't hold it up because they were finalizing it.

Pat Matarazzo – At that point I said we had a subcommittee in place that could review it immediately, and they did.

Jim Cosgrove – Asked how this meeting was set up. Was DEP told this was a CWC meeting? He went to the meeting and told him what he thought on a technical basis.

Pat Matarazzo – That meeting on November 22, 2002, was called by the Department. They wanted to have input from the Association of Environment Authorities, NJ League of Municipalities, CWC and the Water Supply Council. All of those groups were represented at that meeting to give input on that protocol. That input will be considered and the document re-released for comment. There were many groups involved, not just CWC.

Barry Sullivan – Can we get copies of that DEP meeting?

Action item

Jim Cosgrove will get together a summary of the issues discussed at the Nov. 22nd meeting.

Ursula will e-mail those out, along with a copy of the Phosphorus Technical Manual that the Commissioner gave to the committee to review.

Jim Cosgrove talked about some of the issues discussed at that DEP meeting. He said that the protocol study is supposed to determine whether phosphorus is limiting and whether it will otherwise render the waters unsuitable for the designated uses. The protocol sets up an approach first to determine whether phosphorus is limiting by looking at phosphorus concentrations and looking at nitrogen to phosphorus ratios. Then it looks at eutrophication impacts. Are you seeing high algae concentrations and whether it is attached or suspended. They talked about algae sampling. They wanted to sample at certain locations in the stream. They specifically described the kinds of areas where they wanted to do samplings. The other issue discussed was what happens when you show that phosphorus was not the limiting nutrient, but there are signs of eutrophication. The protocol is set up to say you need a limit of 0.1. Don't we need to understand it better? You haven't proven that 0.1 stream criteria is not applicable. They defined an impoundment based on a surface area of about 5 acres. What if you are in a very wide stream? 5 acres of surface area may not be an impoundment area, it might be just a wide section of that stream. For a facility that has received a requirement for a NJPDES permit to meet an effluent limit of 0.1mg per litre, they can then choose to do the study or not. The study is optional. They require you to do sampling at at least 3 locations; at the most upstream part of the impaired segment, the downstream end of the impaired segment, and immediately downstream of the discharge. Each permittee that does the study will be required to prepare a work plan and be approved by the DEP. That will be a critical aspect of this protocol study. They are also requiring weekly sampling from June – September to measure nitrogen series, phosphorus series, dissolved oxygen, chlorophyll A, turbidity, iron and a few others. It will cost about \$50-100,000 to do this study. They have to use a NJ Certified Lab. I pointed out that there is no certification for chlorophyll A. For dissolved oxygen they might want a continuous recording device. They will be looking at these few things and working on them. If the study shows that phosphorus is limited, then you would have to meet the limit or do a site specific nutrient criteria.

Pat Matarazzo – It is only looking at that one application that phosphorus is or is not limiting. There are other factors that you look at further down the road. This gives a quick look at whether you are limiting or not limiting. We had very little negative comments on what the Department presented at that meeting. DEP did a really good job!

Jim Cosgrove – It is important to recognize that this protocol is supposed to be a simplified approach in understanding if 0.1 criteria is applicable or not. They did a very good job.

Mary Beth Koza – Are we going to get a copy of what you originally reviewed so we can see it.

Kerry Pflugh – I apologize for the mix-up. I was directed to get a copy of the protocol form the Commissioner. I was told by the Program's Office that it could not be e-mailed and that it would have to be a hard copy only. Ursula sent out hard copies to the members who would be working on the document. As liaison for DEP to CWC, I myself did not receive any information on the resulting subcommittee comments of this review. I found out about the meeting accidentally and attended. The meeting was very positive and the DEP people were very pleased with Jim's (Cosgrove) comments. We will try and make sure that this kind of thing does not happen again.

Russell Furnari – There should never, on this Council, be a document that is reviewed by a subcommittee, that CWC members do not have a copy of. There should be some communication available to all the members when there is something to be reviewed by a subcommittee. Also, they should have the option to request to be on that particular subcommittee.

Mary Beth Koza – would like to see first document reviewed by subcommittee.

Kerry Pflugh – felt that all members should see the original document reviewed by the subcommittee so that when the new one comes out you can compare and decide collectively as a committee that you agree with the modifications.

Action Item:

Pam Goodwin – asked if Jim Cosgrove would synthesize the comments made collectively at that meeting. If anyone feels that these interests were not represented by those statements, then a letter should go out to clear the record.

Mary Beth Koza – Maybe we can review our membership and who are on the technical subcommittee list at our next meeting.

Kerry Pflugh – FYI – you have CWC members and then there is a separate list of names which are pulled, depending on their expertise, for the different subcommittees. In the future, whatever subcommittee that is formed should share the information with the CWC. Everyone should look at that information and have an opportunity to comment.

Amy Goldsmith – Commented on the fact that some of the people on the subcommittee are not CWC members. It does not seem right to have documents going out without the opinions of the appointed council members. We should really reorganize the subcommittees and reassign people to those committees.

Mary Beth Koza – We as CWC members report to others. We should know what is going on and take an active part in the decisions made on documents or issues, so we know what to report back.

Amy Goldsmith – suggested that no document or presentation written or otherwise, goes out from a subcommittee, or a CWC individual, unless the CWC has approved it, either by e-mail or at a meeting. If a member represents CWC at a meeting, the CWC should approve it.

Kerry Pflugh – If anyone is asked to represent CWC please notify me. If you are at a meeting, you should let them know you are representing yourself and not CWC.

DEP UPDATE

Kerry Pflugh – Nothing has changed since the last report. The reorganization proposal is going into effect as of January 1st. We are in transition now. We received a phone call from Clean Air Council. They would like a joint meeting with us in February. We would like to get back to Jorge Berkowitz and Angela on whether we would want speakers or not. It would be useful for the two Councils to meet. The Department will be coming out with updated advisories for PCB's in fish statewide. A discussion between the Air program and the Water program would be very useful. Many of the sources for PCB in terms of discharge to water, are not controlled. I don't know to what extent we are seeing air deposition on PCB to water. We need to know why, when and how to protect ourselves.

Russell Furnari – We might want to suggest to them to get Mr. Eisenwright or Lisa Totten from Rutgers to make a presentation on PCB. They have aerial stations throughout the corridor and they use that data for the HEP program. They also have interface data.

Pat Matarazzo – Commented on Amendment to Surface Water Quality Standards 79B – We are reclassifying 15 streams and reservoirs in the state of NJ up to C1 status and that comment period goes to January 17th. There was a public hearing on Dec. 10th and there is another one the Dec. 18th. I suggest you read this document. On the surface it looks like a good process but as you read more, it has far reaching implications.

Russ Furnari – On the C1 issue, there are changes in the Rule that don't apply just to the 15 new sites, they apply to every C1. They need to go back and do a cross-reference and look at what those implications are based on anything that is already identified as a C1. In the middle of the document, there is a proposal for three wildlife criteria. At least 2 out of 3 of the methodologies that are required for people to use, are not EPA approved. There can be concerns with the use of these methodologies.

Barry Sullivan – What do they mean by wildlife criteria?

Russ Furnari – There are several different types of criteria that make up the Water Quality Standards. There are the aquatic criteria, which is directed at any water being. Then there is a wildlife criteria, which looks at what is protective of wildlife as opposed to what is protective of health. One of the standards they use is the health standard. A lot of times with mercury and PCB's in fish, it is a human health criteria. The human

criteria is based on the consumption of the fish. Wildlife criteria is based on wildlife consuming the fish.

Kerry Pflugh – It is the same way that we calculate fish advisories for protection of public health. People are the highest order in the food chain, therefore the magnification of the contaminant by the time it reaches the higher order of species is so great that it could be toxic.

Russ Furnari – The Water Quality Standards now have to meet the lowest criteria that is established in the state. The way it is written is that everyone that has a permit to discharge will be required to screen to see if they have those levels.

Pat Matarazzo – Hoboken's Mayor was concerned with C1 water three miles on the Coast. Will that mean all redevelopment on the Coast will cease?

Jim Cosgrove - We need to understand that when you are reviewing the proposal to upgrade C1 streams, what C1 means. The other thing C1 is going to mean is that you will have a 300 foot special water resource protection area around the top of the bank of the stream of the waterway. I don't see anywhere in the Stormwater Regulations that takes out the Coastal. The Atlantic Ocean out to the three mile limit is C1.

Kerry Pflugh – You can go to the Water Quality Standards Program website to see the C1 list and comments on C1. We should all read the Stormwater Rules and C1 Rule and comments be prepared for our January meeting. Someone representing the Council should either go to a hearing and present these CWC comments, or send written ones in.

Mary Beth Koza – suggested that at our Jan. 14th meeting, those writing comments on C1, e-mail them to all CWC members so that we can digest them and come up with questions and answers that all will review and agree to.

Action Item

Kerry Pflugh – We will send an e-mail out to CWC members, that a good portion of the January meeting will be to create comments for C1 degradation and to please read the Rule proposal. If you are planning on giving comments for the organization you represent, please bring those comments to the meeting so we can do a catwalk between the various issues.

Public Hearing

Pat Matarazzo – Our topic will be Reuse and Recycling. With all the different rules coming out at the same time and all having connections, it may be the right time to consider using a panel setup for the hearing. We need someone to represent Stormwater, Water Supply, Watershed, as well as Reuse and the Environmental group, so that we can have a dialogue in front of an audience to bring all these connections together.

Ursula Montis – reported that a room was obtained for April 16th, at the Holiday Inn in Jamesburg, NJ, where we had the last Public Hearing. That seemed to be centrally located. We are going to need a committee to come up with questions for the brochure that is printed up and sent out notifying the public of the Hearing.

Kerry Pflugh – We should have these questions established at our January 14th meeting. That will be very busy meeting, what with comments for C1 as well. We would have done these questions for the brochure at our February meeting, but that is going to be our joint meeting with Clean Air Council.

Amy Goldsmith – Is something coming up that is urgent or can we put off the joint meeting until another time?

Kerry Pflugh – That may be best. We will talk to them on January 3rd and bring this up with them. Concerning the hearing, do we want to do more of an information session or do we have a panel discussion and also allow for testimony on the issue of reclamation? Or do we want to go back to the more traditional hearing?

Barry Sullivan –We have done hearings before using panels which worked out fine.

Pam Goodwin – The people would have to be notified of this.

Russ Furnari – If we are going to do it as a panel, we would say we were going to have a panel of representatives from various water areas who will present current issues. Then we would accept comments and ask for the public to provide testimony on those issues presented and on any other water issues that they can see for the Council to consider for the next year.

Helen Heinrich – Will they be discussing all kinds of reuse?

Pat Matarazzo – Yes, Agriculture reuse, golf courses, lawn reuse, not just drinking water. FYI – Sacramento, Calif. has a reuse factor of 65%. They have a reuse Masterplan that I recently received. I will review that plan and send pertinent information to all CWC members. We might want to invite the people from Calif. out to speak.

Amy G. – At our February meeting, we might want to go over who we want as our panelists.

Kerry Pflugh – We need names for panelists, we need questions for the brochure on reclamation that we send out, speakers, and information, materials or manuals from states or facilities that are doing something good in the way of reclamation. Please bring them with you to the meeting.

Pam Goodwin – We need to do this sooner than later as some of the speakers we invite may come from other states such as Calif, to allow for travel preparation.

Mary Beth Koza – What about doing poster sessions? Get posters from different facilities and put them up at the hearing.

Kerry Pflugh – I think that is a good idea. We would have to check with the facility to see how much space will be available or maybe have use of the hallway. The room only holds about 100 people. We are under a budget maximum so could not get a larger room.

Barry Sullivan – Can we get someone to fund us for a bigger place?

Kerry Pflugh – I might have a solution. We have a contract with Rutgers University Continuing Education to do workshops and training. Maybe we could ask them to fund this Hearing. I could explore the possibility of them taking over the logistics and paying for it all out of the existing budget allocated for training for the public in all kinds of water related issues. We would like to keep it near Trenton, as we would like the Commissioner to come. This is one of the issues he asked us to facilitate for our Public Hearing. As soon as we definitely have the location as well as the date, I will pass this information on to the Commissioner's scheduling secretary to see if he can come.

Pam Goodwin – I like the idea of trying to offset the finances for the Hearing, but it may look as if we are being sponsored.

TMDL Conference

Pat Matarazzo – EPA is coming out with new TMDL guidelines. They are getting better at responding to questions. The overall impression I got was that TMDL is very site specific. This was a more realistic and positive conference.

Russ Furnari – There was a lot more interaction at this conference than some of the others. There were a lot of regulators and West Coast presentations by groups that did different approaches to establish TMDL's and implementing them.

Webpage Update

We have to update it.

Action Item

Ursula Montis will e-mail meeting schedule for the coming year to all the members.

Jim Cosgrove – If there is an extension on the C1 proposal, will we still have that discussion at our January meeting?

Kerry Pflugh – Yes, I think we should.

